

Council Regulation (EC) No 2597/97 of 18 December 1997 laying down additional rules on the common organization of the market in milk and milk products for drinking milk

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission (1) ,

Having regard to the opinion of the European Parliament (2) ,

Having regard to the opinion of the Economic and Social Committee (3) ,

Whereas the aim of Council Regulation (EEC) No 1411/71 of 29 June 1971 laying down additional rules on the common organization of the market in milk and milk products for drinking milk (4) , is to increase the market for products falling within CN code 0401 as much as possible by providing a guarantee of quality and products which fulfil consumers' needs and wishes; whereas the establishment of marketing standards for the milk products concerned helps to stabilize the market and therefore to ensure a fair standard of living for farmers; whereas it is consequently in the interests of both producers and consumers to maintain such rules;

Whereas, in order to profit from experience and to simplify and clarify the rules so as better to guarantee legal certainty for those concerned, a number of amendments should be made to the said Regulation, and its provisions brought together in a new Regulation;

Whereas, in order to meet the wishes of consumers, who attach increasing importance to the nutritional value of milk proteins, rules should be laid down to ensure that milk products contain at least the natural protein content of milk and to permit the enrichment of drinking milk with milk proteins, mineral salts or vitamins or the reduction of its lactose content;

Whereas Article 5 (9) of Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products (5) , lays down certain requirements concerning the composition of drinking milk; whereas, in the interests of consistency, those provisions should be included in the Regulation on marketing standards and at the same time amended to take account of experience;

Whereas Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (6) , and Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs (7) apply;

Whereas, in order to ensure consistency, products imported from third countries should be subject to the same rules;

Whereas provision should be made that the Member States must determine the checks and penalties to be applied in the event of infringement of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down standards for products falling within CN code 0401 intended for human consumption within the Community, without prejudice to measures for the protection of public health.

2. For the purposes of this Regulation:

(a) 'milk' shall mean the produce of the milking of one or more cows;

(b) 'drinking milk' shall mean the products referred to in Article 3 intended for delivery without further processing to the consumer;

(c) ' fat content ' shall mean the ratio by mass of parts of milk fat per hundred parts of milk in the milk concerned;

(d) protein content shall mean the ratio by mass of parts of protein per hundred parts of milk in the milk concerned (obtained by multiplying by 6,38 the total nitrogen content of the milk expressed as a percentage by mass) .

Article 2

1. Only milk complying with the requirements laid down for drinking milk may be delivered or sold without processing to the final consumer, either directly or through the intermediary of restaurants, hospitals, canteens or other similar mass caterers.

2. The sales descriptions to be used for those products shall be those given in Article 3. Those descriptions shall be used only for the products referred to in that Article, without prejudice to their use in composite descriptions.

3. Member States shall adopt measures to inform consumers of the nature and composition of the products concerned where the absence of such information is likely to cause confusion.

Article 3

1. The following products shall be considered as drinking milk:

(a) raw milk: milk which has not been heated above 40 °C or subjected to treatment having equivalent effect;

(b) whole milk: heat-treated milk which, with respect to fat content, meets one of the following requirements:

- standardized whole milk: milk with a fat content of at least 3,50 % (m/m) . However, Member States may provide for an additional category of whole milk with a fat content of 4,00 % (m/m) or above,

- non-standardized whole milk: milk with a fat content that has not been altered since the milking stage either by the addition or removal of milk fats or by mixture with milk the natural fat content of which has been altered. However, the fat content may not be less than 3,50 % (m/m) ;

(c) semi-skimmed milk: heat-treated milk whose fat content has been reduced to at least 1,50 % (m/m) and at most 1,80 % (m/m) ;

(d) skimmed-milk: heat-treated milk whose fat content has been reduced to not more than 0,50 % (m/m) .

2. Without prejudice to the second indent of paragraph 1 (b) , only the following modifications shall be allowed:

(a) in order to meet the fat contents laid down for drinking milk, modification of the natural fat content by the removal or addition of cream or the addition of whole milk, semi-skimmed milk or skimmed milk;

(b) enrichment of milk with milk proteins, mineral salts or vitamins;

(c) reduction of the lactose content by conversion to glucose and galactose.

Modifications in the composition of milk referred to in (b) and (c) shall be allowed only if they are indelibly indicated on the packing of the product so that it can be easily seen and read.

However, such indication shall not remove the obligation as regards nutrition labelling laid down by Directive 90/496/EEC. Where proteins are added, the protein content of the enriched milk must be 3,8 % (m/m) or more.

However, Member States may limit or prohibit modifications to the composition of milk referred to in points (b) and (c) .

Article 4

Drinking milk must:

(a) have a freezing point close to the average freezing point for raw milk recorded in the area of origin of the drinking milk collected;

- (b) have a mass of not less than 1 028 grams per litre for milk containing 3,5 % (m/m) of fat at a temperature of 20 °C or the equivalent weight per litre for milk having a different fat content;
- (c) contain a minimum of 2,9 % (m/m) of protein for milk containing 3,5 % (m/m) of fat or an equivalent concentration in the case of milk having a different fat content;
- (d) have a fat-free dry matter content of 8,50 % (m/m) or more for milk containing 3,5 % (m/m) of fat or an equivalent content in the case of milk having a different fat content;

Article 5

Products imported into the Community for sale as drinking milk must comply with this Regulation.

Article 6

Directive 79/112/EEC shall apply, in particular as regards national provisions on the labelling of drinking milk.

Article 7

1. Member States shall adopt all appropriate measures to monitor the application of this Regulation, penalize infringements and prevent and repress fraud.

Such measures and any amendments shall be notified to the Commission during the month following their adoption.

2. The Commission shall adopt detailed rules for the application of this Regulation in accordance with the procedure laid down in Article 30 of Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (8) .

Article 8

Regulation (EEC) No 1411/71 is hereby repealed.

References to Regulation (EEC) No 1411/71 shall be understood to apply to this Regulation.

Article 9

This Regulation shall enter into force on 1 January 1998. Article 4 shall, however, apply from January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 December 1997.

For the Council

The President

F. BODEN